



City of Seattle

**Department of Planning and Development**

Diane M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3011351  
**Applicant Name:** Chuck Kolesar  
**Address of Proposal:** 1700 13<sup>th</sup> Avenue SW

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Application to install five, 235 linear feet' of pipeline (petroleum) and pipe supports running along shoreline bulkhead in an environmentally critical area. (55 linear ft. on this site). Review includes related Project 3011157 at 1711 13th Ave SW. (180 ft of pipeline on adjacent site).

The following Master Use Permit component is required:

**Shoreline Substantial Development Permit** – to allow development in the Urban Industrial (UI) Shoreline Environment - (SMC 23.60.020)

**SEPA DETERMINATION:** ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS  
☐ DNS with conditions  
☐ DNS involving non-exempt grading or demolition or,  
involving another agency with jurisdiction.

**BACKGROUND DATA**

**Site and Area Description**

The subject site is constituted of three parcels located along Elliott Bay beyond the intersection of 13<sup>th</sup> Avenue SW and SW Massachusetts Street. The sites are all zoned IG1 and are within the UI shoreline environment. They are all within shoreline habitat, flood prone, and liquefaction environmental critical areas (ECAs). The surrounding area is heavily industrialized, with large trucking and train facilities located within a couple of blocks. A large pier occupies the DNR

property, and the two other parcels are paved in all areas not occupied by buildings. The southerly parcel is recognized by the King County Assessor as a warehouse use; the northerly parcel as a parking lot. Underground pipelines presently run under the paving at the water's edge, and connect to pipelines running out the pier. A chain link fence divides the northerly site, which is entirely paved, from the adjacent street right-of-ways.

### Proposal

The proposal is to re-locate five existing pipes above grade, with minor associated grading.

### Notice and Comment Period

Notice of the application was published on May 24, 2010. The required public comment period ended on June 22, 2010. No comments were received.

The Land Use Application file is available at the Public Resource Center located at 700 Fifth Ave, Suite 2000<sup>1</sup>.

## **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

### **A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

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<sup>1</sup> <http://www.seattle.gov/dpd/PRC/LocationHours/default.asp>

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60.

Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$5,000. The proposed development has been designed to ensure minimum impact to the public health, land and waters of the state, and their aquatic life. The location of the proposed work on the shoreland will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

## **B. THE REGULATIONS OF CHAPTER 23.60**

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program.” In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special requirements use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

### **SMC 23.60.004 - Shoreline Policies**

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan’s Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. An economic objective for the shoreline is to “Encourage economic activity and development of water-dependent uses by supporting the retention and expansion of existing water-dependent businesses and planning for the creation of new developments in areas now dedicated to such use.” (Please refer to Economic Development Goals, Policy LUG51). An area objective for this portion of the Ship Canal is to “retain and encourage the important role that the

Ship Canal plays in state, regional and local fisheries by reserving the Ship Canal primarily for water-dependent and water-related uses” (please refer to Area Objectives For Other Shorelines Areas, Policy LU269 2a). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220.C.11 is to “provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan”.

Cargo terminals are designated as a water dependent use. This use needs to be established on the two land parcels. As such, the proposal would be supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

### Development Standards

The proposed cargo terminal is permitted outright in SMC 23.60.840 governing the UI shoreline environment. The proposed action is therefore subject to:

1. *the general development standards for all shoreline environments (SSMP 23.60.152);*
2. *the development standards for uses in the UI environment (SSMP 23.60.870); as well as*
3. *the development standards for General Industrial 2 zones (SMC 23.50).*

#### 1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

All uses and developments shall be subject to the following general development standards:

- A. *The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best Management Practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.*
- B. *Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land*
- C. *Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....*
- D. *The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.*
- E. *All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.*

- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- G. All shoreline developments and uses shall control erosion during project construction and operation.*
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.*
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.*
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.*
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.*
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.*
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.*
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.*
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.*

The proposal comports with the above requirements.

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on protecting water quality. This generally takes the form of best management practices being required on building permits. This measure will be adequate to ensure protection of the shoreline from the limited construction that is proposed.

As proposed and as conditioned below, the project complies with the above shoreline development standards.

2. Development Standards for UI Shoreline Environments (SSMP 23.60.870)

The development standards set forth in the Urban Industrial Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors, setbacks, water-related uses on waterfront lots and public access. The proposal conforms to all of the development standards for the UI environment.

3. Development Standards for Industrial Zone Uses (SMC 23.50)

The project proposal must meet the development standards of the underlying General Industrial 1 (IG1) zone. The development proposal has been reviewed by a Land Use Plans Examiner who has determined the project complies with the required development standards. The proposal meets the height, related setback, screening and landscaping, venting, parking and access standards.

**C. THE PROVISIONS OF CHAPTER 173-27 WAC**

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local government s, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the UI environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms with specific development standards of the underlying zones, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal, as conditioned below, is hereby conditionally approved.

**DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED**.

## **CONDITIONS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

(following SEPA Analysis and Conditions)

### **SEPA ANALYSIS**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: “Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,” subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### **Short-term Impacts**

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; and 4) consumption of renewable and non-renewable resources. These impacts are not significant.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general, including best management practices). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

### **Long-term Impacts**

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: potentially increased marine traffic in the area and potentially increased activity related to the new crane. These impacts are minor in scope and appear capable of being easily absorbed in the industrial maritime area. They do not warrant conditioning pursuant to SEPA policies.

Greenhouse Gas

The applicant has disclosed that approximately 139 metric tons of carbon dioxide are likely to be emitted (MTCO<sub>2</sub>e) over lifespan. There is no basis for mitigating such emissions at this time.

**DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2)(C).

**CONDITIONS - SEPA**

None.

**SHORELINE CONDITIONS**

The owner(s) and/or responsible party(s) shall:

Prior to Building Permit Issuance

1. Plans shall include a copy of the best management practices to be used.

Prior to Commencement of Construction

2. Notify in writing all contractors and sub-contractors of the requirements and conditions of this permit.

During Construction

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.



3. The owner(s), builder(s), and all responsible party(s) shall follow the best management practices as carried over to the approved construction set of plans.

*For the Life of the Project*

4. The development shall be maintained per plan.

Signature: (signature on file)  
Colin R. Vasquez, Senior Land Use Planner  
Department of Planning and Development

Date: November 15, 2010